IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 22580 of 2007(S)

AGAINST THE ORDER DATED 05/03/2007 IN IA 59/07 IN OP.453/2005 of FAMILY COURT, NEDUMANGAD
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PETITIONER:

G.S.SURESH KUMAR,
AGED 48 YEARS, CHANI VARUVILAKATHU VEEDU,
KANJIRAMKULAM VILLAGE, NEEYATTINKARA TALUK.

BY ADV. SRI.NIDHI BALACHANDRAN
SRI.T.A.GEORGE JOSEPH

RESPONDENTS:
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1. **SANTHIDEVI, S/O OMANA AMMA,**
KUZHIVILA MELE PUTHEN VEEDU,
ERAPPANCODE, CHERIYAKNOOI,
ARUVIKKARA, NEDUMANGADU.

2. **AKSHAYA, D/O SANTHI DEVI,**
AGED 4 YEARS, KAZHIVILA MELE PUTHEN VEEDU,
ERAPPANCODE, CHERIYAKONNI,
ARUVIKKARA, NADUMANGADU.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.22580/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PETITION TO CONDONE THE DELAY TO SETTING ASIDE THE EXPARTE DECREE DT. 8.1.07.

EXT.P2:- COPY OF THE PETITION TO SETTING ASIDE THE EXPARTE DECREE DT. 8.1.07.

EXT.P3:- COPY OF THE ORDER IN IA. 59/07 IN OP .453/05 OF THE FILE OF THE FAMILY COURT, NEDUMANGAD DT 5.3.07.

EXT.P4:- COPY OF THE AUCTION NOTICE DT. 3.7.07 ISSUED BY FAMILY COURT, NEDUMANGAD.

/TRUE COPY/

P.A. TO JUDGE

tss

J.B.KOSHY & V.GIRI, JJ.

W.P.(C).NO.22580 OF 2007 (S)

Dated this the 8th day of August, 2007

J U D G M E N T

KOSHY,J.

This petition is filed for setting aside the ex parte decree of the Family court and proposed sale of the property for realising the money. It is stated that petitioner was an employee of a ration shop. An ex parte decree was passed for Rs.79,500/-. Petition filed to set aside the same with delay condonation petition (Exts.P1 and P2) were allowed. Delay was condoned on payment of Rs.25,000/-. But when the case was posted on 5.3.2007 petitioner was absent and amount was not paid. Hence petition to set aside ex parte order was dismissed by Ext.P3 order and sale notice Ext.P4 was produced. If petitioner pays the respondent Rs.15,000/- more within two months from today, Exts.P3 and P4 shall stand set aside. If Rs.15,000/- is not paid before that date, Ext.P3 and P4 shall stand confirmed. It is submitted that Rs.10,000/- was paid as

directed by this Court on 23.7.2007. According to the petitioner he came to know about the ex parte decree only when he received the notice of the execution proceedings. Ext.P3 order was passed rejecting the case. Parties may appear before the Family Court on 10.10.2007. Sale shall be postponed for a day after 10.10.2007 subject to the orders passed by the Family Court on 10.10.2007. With the above directions this writ petition is disposed of.

J.B.KOSHY, JUDGE

V.GIRI, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

2nd July, 2007